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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/018,538

03/11/2002

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EXAMINER

PRITCHETT, JOSHUA L

ART UNIT

PAPER NUMBER

2872

MAIL DATE

DELIVERY MODE

09/19/2008

PAPER

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UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES

Ex parte TIMOTHY HUGH NORMAN

Appeal 2008-2198
Application 10/018,538
Technology Center 2800

Decided: September 19, 2008

Before BRADLEY R. GARRIS, CHUNG K. PAK, and PETER F. KRATZ,
Administrative Patent Judges.

PAK, *Administrative Patent Judge.*

DECISION ON APPEAL

This is a decision on an appeal under 35 U.S.C. § 134 from the Examiner's final rejection of claims 18 through 31, all of the pending claims in the above-identified application. We have jurisdiction pursuant to 35 U.S.C. § 6.

We AFFIRM.

STATEMENT OF THE CASE

The subject matter on appeal is directed to “a vehicle rear view mirror” (Spec. 1). This vehicle rear view mirror is said to be designed to overcome the disadvantage associated with known rear view mirrors that carry mirror lens directly in housings (*id.*). According to Appellant, “due to the mirror lens being carried in the frame, it is easier to fit into the housing and the possibilities of damage to the mirror lens during fitting is reduced” (*id.*). Details of the appealed subject matter are recited in representative claim 18 reproduced below¹:

18. A vehicle rear view mirror comprising a housing and a mirror lens carried by a location frame rigidly mounted within and directly connected to said housing, said frame and/or housing being made from a resilient material, and the frame being a resilient snap-fit within the housing characterized in that the housing has a rim portion within which the frame and the mirror lens are wholly located and to which the frame is attached in a fixed position without extending over the outer edges of the rim portion of said housing.

As evidence of unpatentability of the appealed subject matter, the Examiner has proffered the following prior art references:

Repay	US 3,972,597	Aug. 3, 1976
Grissen	US 4,826,306	May 2, 1989
Lang	US 5,604,644	Feb. 18, 1997

¹ Appellant bases his substantive arguments for patentability solely on the limitations of claims 18 and 23. (App. Br. 4-7). Therefore, for purposes of this appeal, we select claims 18 and 23 and decide the propriety of the Examiner’s grounds of rejection based on these claims alone consistent with 37 C.F.R. § 41.37(c)(1)(vii) (2005).

The Examiner has rejected the claims on appeal as follows:

- 1) Claims 18 through 22 and 24 through 31 under 35 U.S.C. § 103(a) as unpatentable over the combined disclosures of Lang and Repay; and
- 2) Claim 23 under 35 U.S.C. § 103(a) as unpatentable over the combined disclosures of Lang, Repay, and Grissen.

Appellants appeal from the Examiner's decision rejecting the claims on appeal under 35 U.S.C. § 103(a).

RELEVANT FACTUAL FINDINGS (FF)

The record supports the following factual findings by a preponderance of evidence:

1. Lang teaches a vehicle rear view mirror comprising a housing 2 and a mirror lens 11 carried by a support plate 12 (corresponding to the claimed location frame) with encircling locking webs 17 comprising projections 20 which snap-fit into recesses 21 of the housing interior wall 18 (Figure 1 and col. 2, ll. 12- 61).
2. Lang impliedly teaches that its support plate (frame) and/or housing are made from a resilient material (col. 1, ll. 14-42 and col. 2, ll. 43-57).
3. Appellant does not dispute the Examiner's finding that placing Lang's mirror and frame within the housing would have reasonably expected to shield them "from the weather to increase the usable life span of the rear view mirror..." (Compare Ans. 5 with Br. 4-6).
4. Lang shows its support plate (frame) and mirror lens extending over the outer edges of the rim portion of the housing (*see, e.g., Fig. 1*).

5. Repay teaches an electrically adjustable rear view mirror having a mirror lens 24 carried by a supporting back plate 24 (the claimed location frame) which is wholly within a housing 22 (Fig. 2, col. 1, ll. 5-18, and col. 5, ll. 11-21).
6. Repay teaches that a casing 28 secured (screwed) within the housing 22 “supports the center of the mirror back plate in a snap fit connection (FIG. 17) at a fixed position, and serves to contain, support and fix the location of the motor 30, solenoid 31 and drive transmission 32 relative to the housing” to avoid prior disadvantages (Figs. 2 and 17 and col. 1, ll. 10-65, col. 5, ll. 22-56 and col. 6, ll. 48-57).
7. Repay teaches its back plate (frame) also has vibration dampers 38 comprising plastic tabs 98 biased outwardly by metal springs 99 to assist in placing the mirror in a stationary position and to prevent “a nervous image” resulting from vibration (col. 2, ll. 9-20 and col. 7, ll. 36-46).
8. Grissen teaches a vehicle rear view mirror 11 with a lens that has a resilient snap-fit within a frame 21 (Figs. 2 and 7).

PRINCIPLES OF LAW

Under 35 U.S.C. § 103, the factual inquiry into obviousness requires a determination of: (1) the scope and content of the prior art; (2) the differences between the claimed subject matter and the prior art; (3) the level of ordinary skill in the art; and (4) secondary considerations, if any. *Graham v. John Deere Co.*, 383 U.S. 1, 17-18 (1966). “[A]nalysis [of whether the subject matter of a claim would have been obvious] need not seek out precise teachings directed to the specific subject matter of the challenged claim, for a court can take account of the inferences and creative steps that a

person of ordinary skill in the art would employ.” *KSR Int’l Co., v. Teleflex, Inc.*, 127 S. Ct. 1727, 1740-41 (2007).

ANALYSES AND ISSUES

Appellant does not dispute the Examiner’s finding that Lang teaches a vehicle rear view mirror comprising a frame carrying a mirror lens attached to a housing in a fixed position by a snap fit. (*Compare* Ans. 4, with Br. 4; and *see also* FF 1-2). Nor does Appellant challenge the Examiner’s determination that it would have been obvious to design the support plate (frame) of Lang to snap-fit a mirror lens in the manner taught by Grissen to eliminate the need for gluing the lens into the plate as required by claim 23. (*Compare* Ans. 6 with Br. 6; *see also* FF 7). Rather, Appellant only contends that one of ordinary skill in the art would not have been led to place Lang’s plate (frame) and mirror lens within the housing in a fixed position (Br. 4-6).

Thus, the dispositive question is: Would one of ordinary skill in the art been led to place Lang’s mirror lens and support plate (frame) within the housing in a fixed position within the meaning of 35 U.S.C. § 103? On this record, we answer this question in the affirmative.

As indicated *supra*, Lang teaches a vehicle rear view mirror comprising a frame (support plate) carrying a mirror lens attached to a housing in a fixed position by a snap fit. Although Lang’s frame and mirror are not placed within the housing, there is no dispute that placing Lang’s mirror and support plate within the housing is expected to prolong “the usable life span of the rear view mirror” (FF 3-4).

Given such an expected advantage, one of ordinary skill in the art would have been led to appropriately size Lang’s mirror and support plate

(frame) with encircling locking webs having projections to comport with the size of the interior opening, as well as the location of the interlocking recesses in the interior wall, of the housing to place Lang's mirror and support plate within the housing in a fixed position. This is especially true in this case since the mirror lens and plate were known to be placed within the housing as taught by, for example, Repay.

In reaching this determination, we note Appellant's arguments directed to Repay's electrically adjustable vehicle rear view mirror comprising a supporting back plate having vibration dampers and a mirror lens attached thereto within the housing (Br. 4-6). However, Repay, like Lang, also teaches a snap fit arrangement to ensure that its back plate (frame) carrying the mirror is not displaced from the housing (FF 4-7). Thus, one of ordinary skill in the art interested in a stationary rear view mirror would have been led to employ Lang's or Repay's snap-fit arrangement for placing Lang's mirror and frame within the housing.

ORDER

In view of the foregoing, we affirm the Examiner's decision rejecting claims 18 through 31 under 35 U.S.C. § 103(a).

TIME PERIOD

No time period for taking any subsequent action in connection with this appeal may be extended under 37 C.F.R. § 1.136(a)(1)(iv).

AFFIRMED

tf/lis

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